

FEDERAL RULES OF APPELLATE PROCEDURE

Rule 5. Appeal by Permission**(a) Petition for Permission to Appeal.**

- (1) To request permission to appeal when an appeal is within the court of appeals' discretion, a party must file a petition for permission to appeal. The petition must be filed with the circuit clerk with proof of service on all other parties to the district-court action.
- (2) The petition must be filed within the time specified by the statute or rule authorizing the appeal or, if no such time is specified, within the time provided by Rule 4(a) for filing a notice of appeal.
- (3) If a party cannot petition for appeal unless the district court first enters an order granting permission to do so or stating that the necessary conditions are met, the district court may amend its order, either on its own or in response to a party's motion, to include the required permission or statement. In that event, the time to petition runs from entry of the amended order.

(b) Contents of the Petition; Answer or Cross-Petition; Oral Argument.

- (1) The petition must include the following:
 - (A) the facts necessary to understand the question presented;
 - (B) the question itself;
 - (C) the relief sought;
 - (D) the reasons why the appeal should be allowed and is authorized by a statute or rule; and
 - (E) an attached copy of:
 - (i) the order, decree, or judgment complained of and any related opinion or memorandum, and
 - (ii) any order stating the district court's permission to appeal or finding that the necessary conditions are met.
- (2) A party may file an answer in opposition or a cross-petition within 7 days after the petition is served.
- (3) The petition and answer will be submitted without oral argument unless the court of appeals orders otherwise.

(c) Form of Papers; Number of Copies. All papers must conform to Rule 32(a)(1). An original and 3 copies must be filed unless the court requires a different number by local rule or by order in a particular case.

FEDERAL CIRCUIT RULE

Rule 5. Appeal by Permission**(a) Length of Petition, Answer; Brief.**

- (1) A petition for permission to appeal, or an answer to it, may not exceed 20 pages.
- (2) A separate brief supporting or answering a petition is not permitted.

(b) Appeal Information Sheet.

- (1) A petition for permission to appeal must be accompanied by either:
 - (A) the appeal information sheet prescribed by this court prepared by the petitioner; or
 - (B) a copy of the docket entries in the trial court.
- (2) If permission to appeal is granted, the trial court clerk must promptly prepare and send the appeal information sheet to this court's clerk.

(c) Record; Certified Copy of Docket Entries. In an allowed appeal, the trial court must retain the record as provided in Federal Rule of Appellate Procedure 11(e). The trial court clerk must send a certified copy of the docket entries instead of the record.

(d) Grant of Permission; Fees; Cost Bond; Filing the Record.

- (1) Within 10 days after the entry of the order granting permission to appeal, the appellant must:
 - (A) pay the district clerk all required fees; and
 - (B) file a cost bond if required under Rule 7.
- (2) A notice of appeal need not be filed. The date when the order granting permission to appeal is entered serves as the date of the notice of appeal for calculating time under these rules.
- (3) The district clerk must notify the circuit clerk once the petitioner has paid the fees. Upon receiving this notice, the circuit clerk must enter the appeal on the docket. ~~The record must be forwarded and filed in accordance with Rules 11 and 12(c).~~

Practice Notes

Form Requirements. See Federal Circuit Rule 32(f) for form requirements for petitions and other documents.

Appeal Information Sheet. The form for the appeal information sheet is at Appendix of Federal Circuit Forms, Form 4.

Rule 5.1. Appeal by Leave under 28 U.S.C. § 636(c)(5)
[Abrogated]

Rule 6. Appeal in a Bankruptcy Case from a Final Judgment, Order, or Decree of a District Court or Bankruptcy Appellate Panel

- (a) ~~Appeal From a Judgment, Order, or Decree of a District Court Exercising Original Jurisdiction in a Bankruptcy Case.~~ An appeal to a court of appeals from a final judgment, order, or decree of a district court exercising jurisdiction under 28 U.S.C. § 1334 is taken as any other civil appeal under these rules.
- (b) ~~Appeal From a Judgment, Order, or Decree of a District Court or Bankruptcy Appellate Panel Exercising Appellate Jurisdiction in a Bankruptcy Case.~~
 - (1) ~~Applicability of Other Rules.~~ These rules apply to an appeal to a court of appeals under 28 U.S.C. § 158(d) from a final judgment, order, or decree of a district court or bankruptcy appellate panel exercising appellate jurisdiction under 28 U.S.C. § 158(a) or (b). But there are 3 exceptions: